

JUDGE PECMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

plaintiff,

V.

DARRELL J. MORRIS,
MICHAEL P. BARTOLO,
STEVEN D. GLENN and
JASON R. GORDON

defendants

No. CR05-232MJP

STIPULATION, MOTION AND
ORDER CONTINUING PRETRIAL
MOTIONS DUE DATE AND
TRIAL DATE

Comes now the defendants, Darrell J. Morris, Steven D. Glenn and Jason R. Gordon, by and through their respective attorneys, Michael D. Nance, John Lundin and Michael G. Martin, and the United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Ye-Ting Woo and Bruce Miyake, Assistant United States Attorneys, and submit this stipulation, motion and order to continue the pretrial motions due date and the trial date in this matter. The parties request that the pretrial motions due date be set for September 9, 2005 and that the trial date be continued from August 15, 2005 to October 3, 2005 or as soon

thereafter as is convenient for the Court. The parties respectfully submit that this continuance is necessary to avoid a miscarriage of justice. This continuance is requested for the following reasons.

Four defendants are charged in this six-count indictment. Defendant Michael P. Bartolo is in the custody of Canadian authorities and is awaiting extradition to the United States. Defendants Morris and Glenn are on bond, and defendant Gordon has been detained pending resolution of this matter.

The defendants are charged with a variety of firearms offenses. Defendants Morris and Glenn are also charged with one count of interstate transportation of a stolen motorcycle. All of the alleged offenses occurred between September 2002 and January 2003. Defense counsel have received some, but not all, the discovery they are entitled to receive. Defense counsel cannot determine what, if any, pretrial motions should be filed until the discovery process has been completed. In addition, a substantial amount of defense investigation must be completed before the defendants can be prepared to proceed to trial.

AUSA Bruce Miyake advised defense counsel at arraignment on this matter that he will be out of the office the last two weeks of August 2005. AUSA Ye-Ting Woo is prepared to handle this matter in his absence should the Court decline to continue the trial date.

John Lundin, counsel for Steven Glenn, was hospitalized for over one week in late July. He is suffering from a bacterial infection near his spine. He is now resting at home, but must continue to take medication for severe pain, as well as anti-inflammatory medication. He will be on antibiotics for the next six weeks and hopes to be able to return to work in his office, at least part-time, beginning the week of August 8, 2005.

The parties believe that proceeding to trial on August 15, 2005 would likely result in the ineffective assistance of counsel based upon insufficient time to investigate and prepare this matter for trial. For all the reasons set forth above, the parties respectfully ask that the Court set September 9,

2005 as the pretrial motions due date and continue the trial date from August 15, 2005 to October 3, 2005.

Defendant Morris has filed a Speedy Trial Waiver through November 1, 2005. Defendant Glenn intends to file a Speedy Trial Waiver as soon as his counsel is available to prepare it. Defendant Gordon has declined to execute a Speedy Trial Waiver.

Respectfully submitted this _____ day of August, 2005.

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ORDER

This matter comes before the Court on a stipulated motion by the parties to continue the pretrial motions due date and the trial date, and the Court having considered the entirety of the record and filed herein, the Court finds as follows.

This matter is currently set for trial on August 15, 2005. The United States has not completed the process of providing discovery to the defendants in this matter. Defense counsel are conducting a defense investigation and need additional time to complete the investigation before they will be prepared to begin trial on this matter.

Assistant United States Attorney Bruce Miyake is scheduled to be out of the office the last two weeks of August 2005. John Lundin, counsel for Steven Glenn, has suffered health issues requiring his hospitalization and, as of the time this stipulation, motion and order were filed, has not yet been able to return to work.

Defendants Morris and Glenn have or will execute Speedy Trial Waivers. Defendant Gordon has declined to execute such a waiver.

Under all these circumstances, the Court further finds that failure to grant the requested continuance would likely result in a miscarriage of justice, and would likely result in the effective assistance of counsel, forcing the matter to trial before the parties are prepared to begin trial. The Court further finds that the interests of the public and the defendants in a speedy trial in this case are outweighed by the ends of justice served by continuing the trial date in this matter. Now, therefore,

IT IS HERBY ORDERED that all pretrial motions in this matter must be filed no later than September 9, 2005; that the trial date be continued from August 15, 2005 to October 3, 2005; and that the time between the date of this Order and the new trial date be excludable time under the

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Speedy Trial Act pursuant to Title 18, USC Sections 3161(h)(8)(A), 3161(h)(8)(B)(i) and 3161(h)(8)(B)(ii).

Done this 9th day of August, 2005.

/S/ Marsha J. Pechman
UNITED STATES DISTRICT JUDGE

Presented by:

_____/s/_____
Michael G. Martin, WSBA #11508